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February 13, 2024

**Via ECF**

Honorable Mae A. D'Agostino  
United States District Court  
Northern District of New York  
445 Broadway  
Albany, NY 12207

Re: *Compass-Charlotte 1031, LLC v. Prime Capital Ventures, LLC, et al.*, 24-cv-00055

Dear Judge D'Agostino:

On behalf of Defendant Prime Capital Ventures, LLC and the Third-Party Defendants (with the exception of Tina M. Roglieri), we write regarding the Declaration of Paul A. Levine dated February 12, 2024 (the “Levine Declaration”). (*See* Dkt. No. 121-1.) We will of course reserve for the hearing on February 15, 2024 any comments relating to the substance of the Levine Declaration (if necessary). Instead, we write to point out that the Levine Declaration violates the Local Rules and this Court’s Individual Rules and Practices, in two ways.

*First*, Local Rule 7.1(b)(2) states that “[a]n affidavit must not contain legal arguments but must contain factual and procedural background that is relevant to the motion the affidavit supports.” The Levine Declaration is filled with legal arguments and contentions. In fact, it is difficult to find a paragraph in the Levine Declaration that is not argumentative or contentious. Thus, the Levine Declaration blatantly violates Local Rule 7.1(b)(2).

*Second*, Local Rule 7.1(a)(1) and Paragraph 2.C(i) of the Individual Rules and Practices both limit reply briefs to 10 pages. While the Receiver’s brief is a little over 7 pages long (*see* Dkt. No. 121), the Levine Declaration contains another 14 pages of argument. The Receiver, therefore, has far exceeded the page limits for reply briefs by essentially filing a 21-page brief.

Accordingly, we respectfully submit that the Court should disregard the Levine Declaration in light of this clear violation of the Local Rules and the Individual Rules and Practices.

Respectfully submitted,

/s/ *Pieter Van Tol*

Pieter Van Tol

cc: Counsel of record (by ECF)